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OCT 02 2006

OFFICE OF PETITIONS

In re Application of :
Steele, et al. : LETTER REGARDING PTA
Application No. 10/028,375 :
Filed: December 28, 2001 :
Atty. Dkt. No.: 06502.0374-00 :

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed June 28, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

Applicants indicate that the PTA of 747 days indicated on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b), mailed April 27, 2006 may be in error and request a re-determination.

The correct patent term adjustment (PTA) at the time of the allowance is 568 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the Notice of Allowance reflects an adjustment of 568 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A careful review of the application history reveals that the Office failed to assess a reduction of 30 days in connection with the Notice of Appeal filed September 30, 2005 under 37 CFR 1.704(b).

Moreover, the Office errantly calculated an adjustment of 149 days under 37 CFR 1.702(a)(2). The application is not entitled to an adjustment under 37 CFR 1.702(a)(2) because the Notice of Allowance was mailed within four months of the reply (amendment placing application in condition for allowance) was filed on March 21, 2006. See, endnote for calculation of adjustmentsⁱ.

Accordingly, at the time of allowance, the application was entitled to an adjustment of 606 days. The adjustment is properly reduced eight days, as uncontested by applicants. See, endnote for calculation of reductionsⁱⁱ.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 568 days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

ⁱ An adjustment of 565 days was accorded under 37 CFR 1.702(a)(1) and 1.702(a)(1) for failure to mail at least one notification or Notice of Allowance within 14 months of the date the application was filed. An adjustment of 41 days was accorded under 37 CFR 1.702(a)(2) and 1.703(a)(2) for failure to respond to the amendment filed December 20, 2004 within four months from the date the amendment was filed.

ⁱⁱ A reduction of three days in accordance with 37 CFR 1.704(c)(8) was assessed in connection with the supplemental reply (IDS) submitted December 23, 2004; a reduction of five days in accordance with 37 CFR 1.704(b) was assessed in connection with the amendment after non-final Office action submitted December 20, 2004; and a reduction of 30 days is properly assessed in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal submitted September 30, 2005.

Day : Monday
Date: 10/2/2006

Time: 07:40:21

PALM INTRANET

| PTA Calculations for Application: 10/028375 | | | | | |
|---|--|------------|-------------------------|--|-----|
| Application Filing Date: | | 12/28/2001 | PTO Delay (PTO): | | 755 |
| Issue Date of Patent: | | | Three Years: | | 0 |
| Pre-Issue Petitions: | | 0 | Applicant Delay (APPL): | | 8 |
| Post-Issue Petitions: | | 0 | Total PTA (days): | | 568 |
| PTO Delay Adjustment: | | -179 | | | |

| File Contents History | | | | | |
|-----------------------|------------|--|-----|------|-------|
| Number | Date | Contents Description | PTO | APPL | START |
| 59 | 09/29/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 30 | |
| 58 | 09/29/2006 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 149 | |
| 50 | 04/27/2006 | MAIL NOTICE OF ALLOWANCE | 149 | | 27 |
| 49 | 04/27/2006 | MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED | | | |
| 48 | 04/25/2006 | ISSUE REVISION COMPLETED | | | |
| 47 | 04/25/2006 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 46 | 04/20/2006 | NOTICE OF ALLOWABILITY | | | |
| 45 | 01/20/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 44 | 04/12/2006 | PARALEGAL TD ACCEPTED | | | |
| 43 | 04/12/2006 | NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED | | | |
| 42 | 03/21/2006 | TERMINAL DISCLAIMER FILED | | | |
| 41 | 04/11/2006 | DATE FORWARDED TO EXAMINER | | | |
| 40 | 03/21/2006 | AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL | | | |
| 39 | 03/21/2006 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 38 | 01/20/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 37 | 11/08/2005 | MAIL APPEALS CONF. PROCEED TO BPAI | | | |
| 36 | 11/04/2005 | APPEALS CONF. PROCEED TO BPAI, | | | |
| 35 | 09/30/2005 | REQUEST FOR APPEAL CONFERENCE FILED | | | |
| 34 | 09/30/2005 | NOTICE OF APPEAL FILED | | | |
| 33 | 09/30/2005 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
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|----|------------|--|-----|---|----|
| 32 | 08/30/2005 | MAIL ADVISORY ACTION (PTOL - 303) | | | |
| 31 | 08/17/2005 | ADVISORY ACTION (PTOL-303) | | | |
| 30 | 07/29/2005 | REFERENCE CAPTURE ON IDS | | | |
| 29 | 07/29/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 0 | 27 |
| 28 | 08/09/2005 | DATE FORWARDED TO EXAMINER | | | |
| 27 | 07/29/2005 | AMENDMENT AFTER FINAL REJECTION | | | |
| 26 | 05/31/2005 | MAIL FINAL REJECTION (PTOL - 326) | 41 | | 21 |
| 25 | 05/26/2005 | FINAL REJECTION | | | |
| 24 | 04/08/2005 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 23 | 03/22/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 22 | 03/16/2005 | DATE FORWARDED TO EXAMINER | | | |
| 21 | 12/20/2004 | RESPONSE AFTER NON-FINAL ACTION | | 5 | 15 |
| 20 | 11/23/2004 | REFERENCE CAPTURE ON IDS | | | |
| 19 | 11/04/2004 | REFERENCE CAPTURE ON IDS | | | |
| 18 | 12/23/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 3 | 21 |
| 17 | 11/04/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 16 | 12/20/2004 | WORKFLOW INCOMING AMENDMENT IFW | | | |
| 15 | 09/15/2004 | MAIL NON-FINAL REJECTION | 565 | | -1 |
| 14 | 09/15/2004 | NON-FINAL REJECTION | | | |
| 13 | 08/13/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 12 | 08/13/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 11 | 06/14/2004 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 10 | 06/05/2004 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 9 | 01/15/2003 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 8 | 11/19/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 7 | 04/10/2002 | PRELIMINARY AMENDMENT | | | |
| 6 | 03/27/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 5 | 02/19/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 4 | 01/29/2002 | APPLICATION DISPATCHED FROM OIPE | | | |
| 3 | 01/28/2002 | APPLICATION IS NOW COMPLETE | | | |
| 2 | 01/10/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 12/28/2001 | INITIAL EXAM TEAM NN | | | |

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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